

**REPORT OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE
OCTOBER 1, 1999 TO SEPTEMBER 30, 2000**

In compliance with the requirements of Article 6(a), Uniform Code of Military Justice (UCMJ), The Judge Advocate General and Deputy Judge Advocate General made official staff inspections of field legal offices in the United States and overseas. They also attended and participated in various bar association meetings and addressed many civic, professional, and military organizations.

The Judge Advocate General and other members of the Department also participated in various events to commemorate the 50th anniversary of the UCMJ. On 29 October 1999, The Judge Advocate General participated in a panel discussion during the 9th annual conference on National Security Law in a Changing World in Washington, D.C. The conference was co-sponsored by the ABA Standing Committee on Law and National Security, the University of Virginia School of Law Center for National Security Law, and the Duke University School of Law Center on Law, Ethics and National Security. The panel, consisting of The Judge Advocate General, Former Chief Judge Walter T. Cox, III, and Eugene R. Fidell, President, National Institute of Military Justice, and moderator, Senior Judge Robinson O. Everett, discussed the topic: "Fifty Years of Military Justice: Does the UCMJ Need To Be Changed?"

In April 2000, the twenty-sixth Interservice Military Judges' Seminar at The Air Force Judge Advocate General School, Maxwell AFB, Alabama, included a daylong symposium dedicated to the 50th Anniversary of the UCMJ. Guest speakers included Judge Andrew S. Effron, Court of Appeals for the Armed Forces, Professor Lee D. Schinasi, Professor David A. Schlueter, Brigadier General Jack Rives, Brigadier General (Ret) John Cooke, and a panel of six retired Judge Advocate Generals of the Air Force speaking about significant military justice developments during their respective terms. Attending the panel discussion were former TJAGs Major General Reed, Major General Bruton, Major General Norris, Major General Morehouse, Major General Sklute and Major General Hawley. All of the military judges attending the Interservice Seminar and a large number of Maxwell's professional military education students, faculty and special guests attended the 50th Anniversary of the UCMJ Symposium.

On 9 July 2000, The Judge Advocate General also participated in a panel discussion during the annual meeting of the American Bar Association in New York. The panel, consisting of The Judge Advocate General, Professor Patricia M. Gormley, Mr. Frank J. Spinner, and Professor Elizabeth L. Hillman, and moderator, Professor David A. Schlueter, discussed the topic: "Sex and the UCMJ: 50 Years into the Modern Era of Military Justice . . . Why Do the Services Still Prohibit Fraternalization, Adultery, and Unprofessional Relationships?"

THE AIR FORCE COURT OF CRIMINAL APPEALS

During fiscal year 2000, the number of cases referred to the Court increased slightly, while the number of decisions released

dropped significantly. This is probably due to the increasing length of the records of trial and the number of issues brought on appeal.

The Court continued its "Project Outreach" program, hearing oral arguments at the United States Air Force Academy, Colorado; Randolph AFB, Texas; and Maxwell AFB, Alabama. In conjunction with a Professional Development Division recruiting effort, the Court heard oral argument at the Howard University School of Law. Over 100 students and faculty attended the argument.

In September 2000, the Court also revised its Internal Rules of Practice and Procedure.

USAF JUDICIARY ORGANIZATION

The USAF Judiciary Directorate has responsibility for overseeing the administration of military justice throughout the United States Air Force, from nonjudicial proceedings to the appellate review of courts-martial. Additionally, the Directorate has the staff responsibility of the Air Force Legal Services Agency in all military justice matters which arise in connection with programs, special projects, studies, and inquiries generated by the Department of Defense (DoD), Headquarters USAF, members of Congress, and various agencies. The Judiciary Directorate consists of the Trial Judiciary Division, Government Trial and Appellate Counsel Division, Appellate Defense Division, Trial Defense Division, Military Justice Division, and the Clemency, Corrections and Officer Review Division.

The director of the Judiciary is also the current chairman of the DoD Joint Service Committee on Military Justice. Normally this chairmanship rotates biennially among the Services. However, in April 2000, the Air Force agreed to chair the committee for a third year. During this fiscal year, the Committee conducted a study on the feasibility and desirability of an independent judiciary, made numerous conforming changes to the Manual for Courts-Martial to implement the expanded jurisdiction of the special courts-martial; and finalized its 2000 annual review. In his capacity as the chair of the Committee, the director attended the February 2000 mid-year meeting of the American Bar Association in Dallas, Texas, and also provided a briefing at the concurrent Judge Advocate's Association meeting on "Deployed Military Justice." He attended the July 2000 annual meeting of the American Bar Association in New York and the May 2000 meeting of the ABA Standing Committee on Armed Forces Law at Nellis AFB, Nevada. In September 2000, the director also briefed the Code Committee on the status of Joint Service Committee projects.

TRIAL JUDICIARY DIVISION

The Air Force Trial Judiciary had an average of 20 active duty trial judges, 5 reserve trial judges, 10 noncommissioned officers and a civilian employee court reporter assigned throughout 5 judiciary circuits worldwide. The Chief Trial Judge, his military judge assistant, one noncommissioned officer and the court reporter are assigned to the Trial Judiciary headquarters. The military judges'

duties include: presiding over all general and special courts-martial tried in the United States Air Force; serving as investigating officers under Article 32, UCMJ; acting as legal advisors for officer discharge boards and other administrative boards; and serving as hearing officers in parole violation hearings and at public hearings held to consider draft environmental impact statements. During this fiscal year, military judges averaged approximately 125 days on temporary duty to perform these functions at locations other than their bases of assignment.

The Chief Trial Judge made supervisory visits to all three CONUS circuits and both of the overseas circuits to review workload and facilities. The Trial Judiciary has a Web site on the Internet for trial judges. The Web site contains reference materials and is updated continually.

The Twenty-Sixth Interservice Military Judges' Seminar was conducted by the Trial Judiciary at The Air Force Judge Advocate General School, Maxwell AFB, Alabama, from 10-14 April 2000. One-hundred-seven military judges attended the seminar from the trial judiciaries of the Army, Navy, Marine Corps, Coast Guard, and the Air Force. The Chief Military Judge of the Canadian Armed Forces also attended. The 2000 program included a daylong symposium dedicated to the 50th Anniversary of the UCMJ.

The Chief Trial Judge attended the Military Judge's Course conducted by The Army Judge Advocate General's School in Charlottesville, Virginia, from 16-19 May 2000. In March 2000, one active duty judge attended the Handling Capital Cases Course put on by the National Judicial College at Charleston, South Carolina. In June 2000, five active duty judges attended the Criminal Evidence Course conducted by the National Judicial College at its Reno, Nevada campus.

The Chief Trial Judge attended the annual meeting of the American Bar Association in New York City, New York, in July 2000. He serves on the Executive Committee of the National Conference of Special Court Judges and as Co-Chair of the Military Courts Committee. He also serves as the Chair of the Military Courts Committee of the Judiciary Division, Federal Bar Association. These interactions with civilian judges are most beneficial in promoting a greater mutual understanding of the military and civilian justice systems and the roles of military and civilian judges.

GOVERNMENT TRIAL & APPELLATE COUNSEL DIVISION

The following figures reflect the division's workload in fiscal year 2000 and the previous four years:

	FY 96	FY 97	FY 98	FY 99	FY 00
AFCCA					
Briefs Filed	329	434	320	230	151
Cases Argued	27	22	10	11	19

USCAAF

Briefs Filed	80	85	48	29	23
Cases Argued	52	58	59	27	28

SUPREME COURT

Petition Waivers Filed	4	15	17	2	1
Briefs Filed	0	0	0	0	0

Appellate Government Counsel

In November 1999, the Chief, Trial and Appellate Government Counsel Division and five appellate counsel attended the Criminal Law New Developments Course at the Army Judge Advocate General's School. In addition to providing new appellate counsel an update in the most recent criminal law developments, it was an opportunity for both appellate counsel and trial counsel to spend several hours together and discuss ways to better serve the base legal offices. In March 2000, five appellate counsel also attended the Military Appellate Advocacy Symposium sponsored by The Judge Advocate's Association at Catholic University School of Law.

In December 1999, three appellate government counsel provided in-depth training at the Military Justice Administration Workshop conducted at The Air Force Judge Advocate General School. In April 2000, an appellate government counsel also provided instruction at the workshop conducted at HQ SPACECOM, Peterson AFB, Colorado.

Appellate government counsel also prepared and provided an appellate update on USCAAF and AFCCA decisions and trends in case law for five trial counsel workshops at each of the circuits and for the Article 32 Investigating Officer's Course conducted at Barksdale AFB, Louisiana, in April 2000. Additionally, appellate government counsel provided instruction on myriad military justice topics at the Trial and Defense Advocacy Course in January 2000 and the Advanced Trial Advocacy Course in May 2000 conducted at The Air Force Judge Advocate General School.

Appellate government counsel contributed to "Project Outreach," sponsored by the Court of Appeals for the Armed Forces and the Air Force Court of Criminal Appeals, by conducting oral arguments before audiences at the United States Air Force Academy, Catholic University School Of Law, Howard University School of Law, The Air Force Judge Advocate General School, and at the Great Hall of the Bar of the City of New York, educating personnel about the fairness and professionalism of the military justice system.

Appellate counsel supplemented the division's web site with the November and February additions of the Appellate Update, the December and March Advocacy Continuing Education (ACE) Newsletters and the 2000 Trial Counsel Deskbook. Easy access to these materials enhanced the

briefings provided by appellate government counsel at the Trial and Defense Advocacy Course and the Advanced Trial Advocacy Course.

Currently, there are nine reserve judge advocates assigned as appellate government counsel. They continue to provide superb support, greatly assisting the Trial and Appellate Government Counsel Division in carrying out its mission. In addition to preparing written briefs, three of the reserve counsel have presented oral argument before the Air Force Court of Criminal Appeals or the Court of Appeals for the Armed Forces during the fiscal year.

Circuit Trial Counsel

The manning authorizations for the fiscal year included 17 Circuit Trial Counsel (CTC) at 3 circuit offices in CONUS, while 4 CTCs cover the Pacific and European theaters, two per theater. During fiscal year 2000, Circuit Trial Counsel tried 186 general courts-martial or 56% of all general courts-martial. In addition, Circuit Trial Counsel tried 31 special courts-martial. Several CTCs attended the Criminal Law New Developments Course at the Army JAG School in Charlottesville, Virginia. The CTCs in all five judicial circuits conducted workshops for base-level prosecutors. Circuit Trial Counsel also utilized their talents by teaching as adjunct instructors at the Trial and Defense Advocacy Course and the Advanced Trial and Defense Advocacy Course.

APPELLATE DEFENSE COUNSEL DIVISION

The following figures reflect the division's workload in fiscal year 2000 and the previous four years:

	FY 96	FY 97	FY 98	FY 99	FY 00
AFCCA					
Cases Briefed	534	505	603	507	398
Oral Arguments	23	22	10	9	15
USCAAF					
Supplements to Petitions	589	527	424	416	330
Grant Briefs	39	85	40	26	28
Oral Arguments	45	58	59	23	25
SUPREME COURT					
Petitions	5	13	17	0	1
Briefs in Opposition	2	2	1	0	0
Briefs on the Merits	1	1	0	0	0

Training for our appellate defense counsel remained one of the division's highest priorities. Training this fiscal year included attending civilian appellate advocacy seminars sponsored by the National Legal Aid and Defender Association, NAACP Legal Defense & Education Fund, Defense Research Institute, and LawRose, Inc.

Appellate defense counsel supported trial defense counsel in the field through active participation in the five annual Chief Circuit Defense Counsel Conferences. During this period, counsel provided briefings to trial defense practitioners on new developments in military criminal law. The division also created a web site to provide immediate and useful information, including appellate court decisions, to the trial defense community enabling them to formulate defense tactics and strategies.

Appellate defense counsel actively participated in the Area Defense Counsel Orientation courses providing legal guidance to counsel just beginning their defense counsel tours. Appellate defense counsel served as adjunct faculty members in the Advanced Trial Advocacy Course and Trial and Defense Advocacy Course at the Air Force Judge Advocate General School. The Law Office Manager also spoke at the USAFE and Central Circuit Defense Paralegal Conferences-- bridging the gap between trial defense and appellate defense paralegals.

The division hosted a Joint Appellate Defense Counsel Workshop with appellate counsel from the Army, Navy, Marine Corps, and Coast Guard appellate defense offices. Several high profile counsel from the civilian sector also attended. The workshop fostered communication and cross-feed between the individual appellate defense communities on matters of mutual concern. This has resulted in greater cooperation and sharing of information between the services.

Appellate defense counsel also contributed to "Project Outreach," sponsored by the Court of Appeals for the Armed Forces and the Air Force Court of Criminal Appeals.

TRIAL DEFENSE DIVISION

The Trial Defense Division is responsible for providing all trial defense services within the Air Force through Area Defense Counsel (ADC), Defense Paralegals (DP), Circuit Defense Counsel (CDC), and Chief Circuit Defense Counsel (CCDC). These personnel report to the Chief, Trial Defense Division (JAJD), who reports to the Director, United States Air Force Judiciary (JAJ).

The ADC office at McClellan AFB, California, in the western circuit was closed this year due to impending closure of the installation. A new ADC office was opened at Bolling AFB, Washington, D.C., in the Eastern Circuit. The division is manned with 81 ADCs stationed at 71 bases worldwide. They are assisted by 72 DPs. The division has 21 CDCs and 5 CCDCs. The CCDCs, along with all but four of the CDCs, are stationed at the circuit offices located at Bolling AFB, DC; Randolph AFB, Texas; Travis AFB, California; Ramstein AB, Germany; and Yokota AB, Japan. A single defense paralegal superintendent is assigned to each of the three CONUS circuits.

The continuing success of the Air Force's Area Defense Program is largely attributable to its independence and its energized personnel. Other than advising and representing clients, training remains the division's top priority. Aside from on-the-job training and mentoring that is provided by CCDCs and CDCs, newly appointed defense counsel receive formal training at the Area Defense Counsel Orientation and at annual workshops conducted by each Circuit. DP training is conducted at annual circuit DP conferences. The division also provided adjunct faculty members for the Trial and Defense Advocacy and the Advanced Trial Advocacy Courses, held at the Air Force Judge Advocate General School.

MILITARY JUSTICE DIVISION

The Military Justice Division prepares opinions and policy positions for The Judge Advocate General and for the Air Force Board for Correction of Military Records. They also assemble reports on military justice requested by the White House, Congress, DoD and the Air Staff. The division chief represents the Air Force on the DoD Joint Service Committee on Military Justice and the deputy division chief acts as the Executive Secretary to the Committee. The division also provided representatives to all interservice activities involving military justice and support for the Code Committee.

During the course of the past year, the Military Justice Division served as the action agency for the review of military justice issues on applications submitted to the Air Force Board for Correction of Military Records. The division provided 75 formal opinions concerning such applications. They also received 281 inquiries in specific cases requiring either formal written replies or telephonic replies to senior officials, including the President and members of Congress. The Military Justice Division also reviewed 60 records of trial for review under Article 69a, UCMJ; 7 records under Article 69b, UCMJ; and 1 record under Article 73, UCMJ.

The division co-taught the annual Military Justice Administration Workshops with the Government Trial and Appellate Counsel Division. In January 2000, the office also trained approximately 35 personnel from 4 military installations on victim and witness assistance at Travis AFB, California.

CLEMENCY, CORRECTIONS & OFFICER REVIEW DIVISION

The division's primary responsibilities continue to be (1) recommend appropriate disposition of statutorily required sentence review actions by the Secretary of the Air Force in officer and cadet dismissal cases; (2) recommend action by The Judge Advocate General or the Secretary of the Air Force, as appropriate, to effect statutorily authorized clemency for members of the Air Force under court-martial sentence; (3) represent The Judge Advocate General on the Air Force Clemency and Parole Board; (4) make recommendations for the Secretary of the Air Force to the Attorney General on Presidential Pardon applications by court-martialed Air Force members; and (5) advise The Judge Advocate General and the Security Forces Center on corrections issues.

At the end of fiscal year 2000, a total of 593 Air Force personnel were in confinement. Of those, 115 inmates were in long-term confinement at the United States Disciplinary Barracks, Fort Leavenworth, Kansas, and 97 were serving time in the Federal Bureau of Prisons system. A total of seven inmates were enrolled in the Air Force Return-to-Duty Rehabilitation Program during this period, with one graduating and being returned to duty. The number of Air Force inmates on parole at the end of fiscal year 2000 was 120, a 12 percent decrease from last fiscal year.

AIR FORCE JUDGE ADVOCATE GENERAL SCHOOL

The Air Force Judge Advocate General (AFJAG) School is one of eight professional continuing education schools within Air University's Ira C. Eaker College for Professional Development at Maxwell Air Force Base, Alabama. The AFJAG School is located in the William L. Dickinson Law Center, a 56,000 square foot, state-of-the-art facility dedicated in 1993. The Dickinson Law Center also houses the David C. Morehouse Center for Paralegal Studies and the Air Force Legal Information Services Division (JAS). The AFJAG School provides legal education and training to judge advocates, civilian attorneys, and paralegals from all military services and many foreign countries;

provides legal instruction at 18 other Air University colleges and schools; publishes The Military Commander and the Law, The Air Force Law Review, and The Reporter; and maintains AFJAG Department liaison with military and civilian professional organizations, law schools, and states requiring continuing legal education.

AFJAG School Courses

The AFJAG School conducts 32 separate courses offered 46 times each year. This includes some courses, such as the Judge Advocate Staff Officer Course (JASOC) and Paralegal Apprentice Course (PAC), that are offered multiple times every year. While most courses are offered in-residence at the AFJAG School, others are conducted off-site or by utilizing distance learning technologies. In Fiscal Year 2000, over 4,200 students attended AFJAG School courses, including over 2,000 in-residence students at the AFJAG School. AFJAG School courses, workshops, and seminars include:

Accident Investigation Board Legal Advisor Course
Advanced Environmental Law Course
Advanced Labor and Employment Law Course
Advanced Trial Advocacy Course
Air Force Reserve Annual Survey of the Law
Air Force Systems and Logistics Contracting Course
Air National Guard Annual Survey of the Law
Claims and Tort Litigation Course
Deployed Air Reserve Component Operations and Law Course
Deployed Fiscal Law and Contingency Contracting Course
Environmental Law Course (basic)
Environmental Law Update Course
European Survey of the Law
Federal Employee Labor Law Course
Federal Income Tax Law Course
Fiscal Law Course
Information Operations Law Course
International Law Course
Judge Advocate Staff Officer Course
Law Office Manager Course
Legal Aspects of Information Operations Course
Military Judges' Seminar
Military Justice Administration Workshop
Negotiations and Appropriate Dispute Resolution Course
Operations Law Course (with JAG FLAG Exercise)
Pacific Survey of the Law
Paralegal Apprentice Course
Paralegal Craftsman Course

Reserve Forces Judge Advocate Course
Reserve Forces Paralegal Course
Staff Judge Advocate Course
Trial and Defense Advocacy Course

Off-Site Education

The AFJAG School conducts four "Surveys of the Law" for judge advocates and paralegals in the Air Force Reserves and Air National Guard. The surveys are held at a civilian conference facility in Denver, Colorado. The surveys provided a concise update on recent developments in military justice and civil law. Nearly 600 judge advocates and paralegals from the reserve components attended a survey in Fiscal Year 2000.

Distance Learning

The AFJAG School offers two courses each year, the Fiscal Law Course and the Air Force Systems and Logistics Contracting Course (AFSLCC), by satellite broadcast to Air Force and Army installations throughout the United States. In Fiscal Year 2000, over 1,250 students participated in courses via satellite. This included over 1,000 students in the Fiscal Law Course and 235 students in AFSLCC. Also, the 5-level Paralegal Journeyman Course is offered as a non-resident course in both paper and CD-ROM formats. The Paralegal Journeyman Course was the first career development course in Air Force history to be offered in a CD-ROM format.

Outside Teaching

In addition to teaching within the AFJAG School, the faculty provides approximately 1,800 hours of legal education and training each year in the following colleges, schools, and courses within Air University: Air War College; Air Command and Staff College; Squadron Officer College; College of Aerospace Doctrine, Research, and Education; International Officers School; Basic Officer Training Course; Commissioned Officer Training Course; USAF First Sergeants' Academy; Senior Noncommissioned Officer Academy; Group Commanders' Course; On-Scene Commanders' Course; Professional Military Comptroller School; and Chaplain Orientation Course.

The AFJAG School continued its support of the Expanded International Military Education and Training (E-IMET) Program in Fiscal Year 2000. E-IMET is a Security Assistance Program (22 U.S.C. § 2347) managed by the State Department. It furthers U.S. foreign policy goals under the Foreign Assistance Act by providing training on human rights and democratic principles to military leaders in nations identified as emerging democracies. Air Force judge advocates participated in 23 joint service E-IMET training events in Fiscal Year 2000. These programs provided training to leaders from 16 nations, including, among others, Kenya, Russia, Slovakia, Bolivia, the Czech Republic, Croatia, and Bosnia.

Publications

The AFJAG School published two editions of The Air Force Law Review, a professional legal journal comprised of articles of interest to Air Force judge advocates and paralegals, civilian attorneys, and others involved in military law. The Air Force Law Review is a forum for frank discussion of current legislative, administrative, and judicial developments. Four editions of The Reporter were published in Fiscal Year 2000. This included a special edition in late 1999 commemorating the 50th anniversary of the AFJAG Department. The Reporter is the AFJAG Department's quarterly legal publication and contains general interest articles for practitioners in the field. The AFJAG School's most popular publication is The Military Commander and the Law, a six hundred plus page compendium of concise articles on the full range of legal issues commanders face. The printed version of The Military Commander and the Law is revised every two years and over 20,000 copies are distributed worldwide. Distribution of the 2000 edition was completed late last year. An on-line version is available at <http://milcom.jag.af.mil> and is updated every six months.

LEGAL INFORMATION SERVICES

Continuing its efforts to ensure personnel have expansive, accurate research capabilities, FLITE, along with our Unified Law Library (ULL) initiative, significantly enhanced computer-aided legal research and information cross-flow capabilities within the Department of Defense. FLITE provided the Department with access to up-to-date judicial opinions and court information, hosting web sites for the Court of Appeals for the Armed Forces, the Air Force Court of Criminal Appeals, the three Boards for Correction of Military Records, the Air Force Discharge Review Board, and Air Force Military Trial Judges. The ULL expanded our relationship with on-line legal research providers, opening volumes of legal research material to our field offices—especially those in remote and deployed locations where paper-based libraries are minimal or non-existent. Access to all Lexis-Nexis databases was provided to all Air Force legal offices. Further aiding our deployed personnel, the Manual for Courts-Martial and Military Justice Reporters were published on CD-ROM and added to our deployment and crash kits along with an annotated U.S. Code from Lexis. FLITE also began pilot programs with our sister service JAG Departments, allowing their personnel to access service-specific versions of FLITE. Additionally, to encourage communication between our field offices, FLITE established electronic forums where base-level trial practitioners can discuss military justice issues.

Our Automated Military Justice Administrative Management System (AMJAMS), now in its third full release, expanded the information available to military justice offices throughout the Department, while also upgrading the system to the Secure Socket Layer 3 protocol for increased security of data transmission. Field offices now have the ability to access the same graphical reports provided to The Judge Advocate General's Office for Article 6, UCMJ visits. Newly developed individual case reports compile all information on a case in one report, providing users a complete, up-to-date picture of any case in the system. Reports for cases in progress and processing times for

general and special courts-martial have also been consolidated into a more useful reference tool. For Article 15 cases, AMJAMS now incorporates the Form 3070, with integrated data entry for the form and database to facilitate case preparation and accuracy. Finally, on-line reports have been added to the trial judiciary and appellate modules, allowing more efficient case tracking at these levels. Overall, AMJAMS has expanded information delivery options, increased functionality, and improved the military justice process.

A joint effort between the Legal Information Services Resource Management Division and the Trial Judiciary began testing implementation of voice-recognition technology for court reporting. Voice-recognition systems promise to ease the transcribing burden on our court reporters while increasing the efficiency of preparing records of trial. This pilot program will continue into FY 2001 and will expand to include paralegals acting as contingency court reporters.

PERSONNEL

As of 30 September 2000, there were 1,320 judge advocates on duty. Company grade officers (captains and first lieutenants) made up slightly over half of that number (653). Nearly 25% were majors (323) and 16% were lieutenant colonels (212). Roughly 9% were colonels (123) and above, including two major generals and three brigadier generals.

WILLIAM A. MOORMAN
Major General, USAF
The Judge Advocate General